

underscored material = new
[bracketed material] = delete

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HOUSE BILL 1295

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Antonio "Moe" Maestas

AN ACT

RELATING TO ETHICS; PROHIBITING RETALIATORY ACTION AGAINST
PUBLIC EMPLOYEES FOR REPORTING SUSPECTED VIOLATIONS OF THE
GOVERNMENTAL CONDUCT ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the Governmental Conduct Act
is enacted to read:

"[NEW MATERIAL] RETALIATORY ACTION PROHIBITED.--

A. A public employer shall not take any retaliatory
action against a public employee because the employee:

- (1) discloses, or threatens to disclose, to a
public employer or a public body, or objects to or refuses to
participate in, an action, activity, policy or practice that
constitutes an unlawful act or that the employee reasonably
believes in good faith constitutes an unlawful act; or

underscored material = new
[bracketed material] = delete

1 (2) provides information to, or testifies
2 before, a public body as part of an investigation, hearing or
3 inquiry into an unlawful act.

4 B. A public employer that violates the provisions
5 of this section shall be liable to the employee for all relief
6 necessary to make the public employee whole, including actual
7 damages, compensation for any special damage sustained as a
8 result of the violation and, if appropriate, punitive damages.
9 In any action pursuant to this section, if the public employee
10 prevails, the court in its discretion may allow litigation
11 costs and reasonable attorney fees and the state shall be
12 liable the same as a private person. A public employee may
13 bring an action pursuant to this section in any court of
14 competent jurisdiction.

15 C. Every public employer subject to the provisions
16 of the Governmental Conduct Act shall keep posted in a
17 conspicuous place on the public employer's premises notices
18 prepared by the employer that set forth excerpts of that act
19 and the provisions of this section.

20 D. As used in this section:

21 (1) "blacklisting" means informing others that
22 a person acted in a manner that is protected by this section
23 and intending to hinder that person's ability to obtain
24 employment;

25 (2) "retaliatory action" means blacklisting or

.167029.3

underscored material = new
~~[bracketed material] = delete~~

1 the discharge, suspension, demotion, disciplining or any
2 discriminatory or adverse employment action against a public
3 employee in the terms and conditions of employment; and

4 (3) "unlawful act" means a practice,
5 procedure, action or failure to act on the part of the public
6 employer that violates any of the provisions of the
7 Governmental Conduct Act or any other law."

8 Section 2. EFFECTIVE DATE.--The effective date of the
9 provisions of this act is July 1, 2007.